



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

Thursday, 18 November 2021

Report of the Executive Director - Place

Changes to Temporary Payment Arrangements to Bus, Coach and Taxi Operators for Contracted Transport Services and Concessionary Fares Reimbursement from 1 January 2022 due to the ongoing impact of Coronavirus

(Cabinet Member for Highways, Assets and Transport)

1. Divisions Affected

1.1 County-wide.

2. Key Decision

2.1 This is a key decision because it is likely to result in the Council incurring expenditure which is, or savings which are significant having regard to the budget for the service or function concerned and it is likely to be significant in terms of its effect on communities living or working in an area comprising two or more electoral areas in the County.

3. Purpose

3.1 To update Cabinet on current Coronavirus (COVID-19) related public transport issues and seek approval for an extension of the flexible payment arrangements for bus, coach and taxi operators providing contracted Council transport services and for concessionary fares reimbursement after the current provision ends on 31 December 2021.

4. Information and Analysis

- 4.1 On 20 March 2020, following the worsening health situation and the Government's more specific advice to avoid travel by public transport, it became clear that urgent action was required to secure the immediate future of the Council's contracted transport services and public bus services in Derbyshire more generally. The then Executive Director - Economy, Transport and Environment therefore made an urgent decision to maintain normal contract payments to transport providers who operated the following services for the Council:
- Adult Social Care and Health (ASCH) Transport Services.
 - Contracted Local Bus Services.
 - 'Derbyshire Connect' Services.
 - Mainstream Home to School Transport Services.
 - Special Education Needs and Disabilities (SEND) Home to School Transport.
 - Swimming services for primary schools (normally recharged to schools, but during the initial lockdown from March 2020 to July 2020 *this cost was absorbed by Children's Services*).
- 4.2 At the same time, the then Executive Director also agreed to maintain payments to bus operators for accepting English National Concessionary Travel Scheme (ENCTS) cards, known as Gold Card in Derbyshire, based on the level of travel before the pandemic. Both of these arrangements were to continue until 30 June 2020.
- 4.3 This urgent decision was the subject of an Officer Decision Record (ODR) agreed by Gold CMT on 20 March 2020. It was also reinforced with a Cabinet Office 'Procurement Policy Note' 02/20 (PPN) about supplier relief. The Cabinet Office guidance advised public bodies to issue a Memorandum of Understanding (MoU) to suppliers about terms of payment relief to allow for them to undertake other civic duties in the national emergency. A variation of contract notice was issued and agreed by all transport providers in Derbyshire.
- 4.4 Maintaining contract and concessionary payments ensured that service providers were able to continue to operate Council services, where required to do so. It also ensured they were able to undertake alternative activities, such as taking food or medical supplies to people without access to any other transport, when the normal contracted services were not required, for example, due to the closure of schools or day centres. Maintaining normal payments also allowed the network of public bus services to continue to operate, providing key workers with travel options and learners with access to schools and colleges. These

payments also gave the various operators some certainty about their short term financial stability and allowed them to be available to resume full services when required.

- 4.5 Following this decision on 25 March 2020, the Department for Transport (DfT) issued its own guidance to all English local transport authorities that they needed to take the same actions as Derbyshire already had, in their own areas. At the same time, the DfT also provided emergency direct funding to bus companies to allow them to continue to operate their commercial services.
- 4.6 On 4 June 2020, the then Executive Director - Economy, Transport and Environment made a further urgent decision to continue with the contract and concessionary payment arrangements until 31 October 2020, due to continued uncertainty around future transport requirements as a result of the COVID-19 pandemic. This decision was subsequently reported to the Cabinet Member - Highway, Transport and Infrastructure meeting on 9 July 2020 (Minute No. 34/20 refers) and reflected further Government PPN 04/20 which provided advice to public bodies about continued payment and transitional relief arrangements.
- 4.7 Following the easing of lock down restrictions in mid-June 2020 and the opening of non-essential shops and hospitality venues in July 2020, demand for public transport services slowly began to increase. Most commercial and Council supported conventional bus services returned to their pre-COVID-19 timetables and passenger numbers rose from a low of 10%-15% of normal patronage in the lockdown to a high of 55%-60%. Leisure-related travel was reported as being particularly important as commuter usage remained lower than normal, due to the numbers of people continuing to work from home. The fact that these increases took place whilst the DfT was continuing to advise people to avoid unnecessary use of public transport, showed the importance of these services to a significant number of Derbyshire residents and visitors.
- 4.8 In September 2020, schools and colleges reopened fully for the first time since March 2020. As a result, the Council's mainstream and special educational needs and disability (SEND) home to school transport services fully resumed. Because of the legal requirement to maintain social distancing and support year group "bubble" arrangements, additional services were introduced in some areas using grant funding provided by Government. At the same time, bus operators reported an increase in commuter traffic as people began returning to their normal workplaces rather than working from home. Demand also began to return closer to normal on more specialist, Council funded transport services, with the reopening of some ASCH day centres to

provide for emergency placed clients. The Derbyshire Connect shopping bus service, which mainly caters for the needs of elderly and disabled residents, also saw passenger numbers increase to 70% of pre-COVID-19 levels by the end of October 2020.

4.9 As part of the Council's responsive approach to service provision, on 22 October 2020, the then Director – Economy, Transport and Environment made a further urgent decision that took account of changes in the impact of the COVID-19 pandemic at the time and the need for ongoing support to facilitate the recovery of transport services in Derbyshire. A schedule of revised payment arrangements were agreed effective from 1 November 2020 which were:

- Payments for Adult Care Transport were reduced to 75% of the contracted levels for those services which continued not to operate due to the closure of the day care centre concerned.
- Payments for Contracted Local Bus Services were to remain at 100% of contract levels as services were now operating.
- Payments for Derbyshire Connect Services were to remain at 100% as services were now operating.
- Payments for Mainstream Home to School Transport Services were to remain at 100% as services were now operating.
- Payments for SEND Home to School Transport were to remain at 100% as services were now operating.
- Payments for swimming transport services during the autumn term from September 2020 to December 2020 were to be reduced to 0% of contracted costs. The existing contractual arrangements were, however, to remain in place in the anticipation that services would resume as normal at the start of the new school term in January 2021.

4.10 Concessionary fares payments continued to be made based on the level of bus travel before the pandemic.

4.11 In addition, it was decided that:

- Should local lockdown arrangements be introduced that required the withdrawal of any local bus, Derbyshire Connect, Mainstream or SEND Home to School Transport Services or Adult Care Services in the affected area, then payments would be reduced to 75% of the contracted levels for those services until such time as normal services could be reintroduced.
- Should a transport operator be unable to fulfil a contracted service due to instruction by an authorised body (such as NHS Test and

Trace) that a driver or passenger assistant must self-isolate, then the operator *should* find a replacement member of staff to cover that service. However, in the extreme circumstance that an entire company needed to self-isolate and therefore was unable to provide any contracted services, then payments would be reduced to 75% of the contracted level until such time as normal services could be resumed.

- 4.12 This decision was subsequently reported to Cabinet at the meeting on 19 November 2020 (Minute No. 194/20 refers).
- 4.13 At the time these decisions were made, it had been hoped that the introduction of the tier restrictions, and the more limited four week lockdown in November 2020, where many schools remained open, would negate the need for a further national lockdown.
- 4.14 Unfortunately, this did not prove to be the case and a further national lockdown was introduced on 5 January 2021. This led to the closure of most non-essential businesses and shops with schools remaining open only for children of key workers and vulnerable pupils. At the same time, the DfT reinforced the message not to use public transport services unless absolutely necessary and advised operators and Councils to reduce frequencies on their commercial and supported bus networks. As a result, the local bus network was scaled back to around 75%-85% of normal mileage with passenger usage dropping to around 25%-35% of pre-COVID-19 use.
- 4.15 The Prime Minister's 'roadmap' announcement on 22 February 2021, *set out* the key dates for the lifting of the various COVID-19 restrictions. As a first step, schools began reopening to all pupils from 8 March 2021, with other parts of the economy, including non-essential retail, the hospitality sector, and leisure industries, following over a number of months up to July 2021.
- 4.16 To take account of the changing situation, further alterations to the revised payment arrangements were introduced from 1 April 2021 following approval by Cabinet at a meeting on 11 March 2021 (Minute No. 45/21 refers). The new arrangements were:
- Payments for Adult Care Transport to remain at 75% of the contracted levels for those services which continued not to operate due to the closure of the day care centre concerned.
 - Payments for Adult Care Transport, contracted local bus, Derbyshire Connect, Mainstream Home to School and SEND services which continued to operate normally to remain at 100% of contract levels.

- Payments for Swimming Transport Services to remain at 0% of contracted costs until services could resume, which was not anticipated to be until the new school year began in September 2021.
- Concessionary fares payments to continue to be made based on the level of bus travel before the pandemic, subject to any changes required to respond to updated DfT advice.

4.17 It was also agreed that:

- Should local lockdown arrangements be introduced that require the withdrawal of any local bus, Derbyshire Connect, Mainstream or SEND Home to School Transport Services or Adult Care Services in an affected area, then payments would be reduced to 75% of the contracted levels for those services until such time as normal services could be reintroduced or until it is determined that transport requirements have changed and alternative recommendations are made, whichever is soonest.
- Should a transport operator be unable to fulfil a contracted service due to instruction by an authorised body (such as NHS Test and Trace) that a driver or passenger assistant must self-isolate, then the operator should find a replacement member of staff to cover that service. However, in the extreme circumstance that an entire company has to self-isolate and therefore is unable to provide any contracted services, then payments will be reduced to 75% of the contracted level until such time as normal services are resumed.

4.18 To provide stability to both the Council and contractors, it was felt necessary to maintain these recovery arrangements in place until 31 December 2021.

4.19 **Impacts of Payment Arrangements**

Since the beginning of the first national lockdown in March 2020, the Council has continued to provide vital financial support for transport services in the County. In turn, the transport companies have provided a variety of services on behalf of the Council. Transport companies have demonstrated resilience, community spirit and a willingness to respond to the local COVID-19 efforts. Despite the worsening picture at times, all operators have remained active and many have reacted positively to requests from the Council to adapt or change the services they provide. This has only been possible due to the ongoing support from the Council and, in particular, the Council's action from the outset, maintaining payments to transport providers for contracted services and Gold Card concessions. Over the last eight months, the impact of this policy has been to:

- Maintain payments to local bus operators for over 90 contracted services (budget £3.9 million) and Gold Card concessions (budget £9.5 million) across all public bus services. These payments have been vital in allowing a network of services to be maintained in Derbyshire, ensuring key workers and care staff can continue to get to work, as well as enabling other essential journeys such as food shopping, education and health appointments.
- Maintain payments to operators providing 169 Mainstream Home to School Transport Services (budget £4.5m) and for 665 Special Needs Transport Services (budget £10.5m).
- Maintain payments to operators providing 108 Adult Care Transport Services (budget £3.5m).
- Ensure coach and taxi operators have maintained vital services to schools to ensure vulnerable children, and those of key workers, are able to attend.
- Allow operators and Council officers to work constructively to deliver adapted or additional services to enable greater social distancing and safer travel for children, adults and the wider travelling public.
- Enable minibus operators to provide short notice transport for adults with disabilities requiring emergency support.
- Enable taxi and minibus companies to deliver food hampers and supplies to foster families and looked after children.
- Allow taxis companies to transport care workers on late night shifts.

4.20 However, at this point in the fragile recovery phase, it is important to continue to safeguard the services that the Council requires. Any revised funding arrangements need to carefully reflect the on-going challenges and requirements of the pandemic, alongside continuing to support transport companies and, at the same time, ensuring value for the public purse.

4.21 **Going Forward**

Many of the fundamental concerns which led to the series of decisions made in the 18 months from March 2020 continue to be valid, including:

- The continued probability that transport operators will go out of business without continued support.
- The limited availability of Public Service Vehicle drivers.
- The lack of alternative capacity in the market to allow other operators to pick up additional business within a short timescale.
- The reduced supply in the market, particularly in the taxi and minibus market, as many drivers have gained other employment as a result of the COVID-19 pandemic.

- The continued costs being faced by bus operators to maintain their 'O Licence' which includes maintaining 'financial standing' in their bank account, vehicle insurance and vehicle maintenance.
- The self-employed nature of many taxi drivers which mean they are very vulnerable to the economic shock of COVID-19.

4.22 Whilst the wider effects of the pandemic are anticipated to continue to impact the economy and public transport sector over the medium to long term, a number of other specific changes have occurred since the Cabinet Meeting on 11 March 2021 (Minute No. 45/21 refers) which have impacted on the operation of the Council's contracted transport services including:

- The publication of the Government's National Bus Strategy and the work undertaken by the Council and its partners since the introduction of an 'Enhanced Partnership' arrangement and the associated 'Bus Service Improvement Plan' (BSIP).
- An acceptance by the DfT and the bus industry more generally that passenger numbers are unlikely to return to pre-pandemic levels for a number of years, even with the measures proposed in the National Bus Strategy.
- Changes to the DfT funding provided to support commercial bus services in September 2021.
- Removal of additional funding provided by the DfT and the Department for Education (DfE) for additional school and college transport in July 2021.
- A rapid increase in demand for HGV and delivery drivers that has generated significant wage inflation, which has resulted in significant numbers of Public Service Vehicle and taxi drivers moving jobs into that sector.
- Delays in issuing new taxi licenses due to a COVID-19 backlog of applications with the borough and district councils.
- The extension of Passenger Service Vehicles Accessibility Regulations, (PSVAR), to include School Transport Services which has resulted in a considerable increase in costs as operators are now required to introduce new accessible buses into their fleets for Home to School Services.
- Changes to how adult day care facilities are provided in certain areas, currently subject to review by ASCH department.
- Significant increases in the cost of fuel.

4.23 **Proposals**

With the continued uncertainty about the impact of COVID-19 on the long term demand for public transport services and wider Government

policy changes in the bus sector, the Council needs to maintain a level of flexibility and responsiveness in the way bus services are supported, managed and commissioned until the way ahead becomes clearer. Statutory Mainstream School and SEND services also need to be supported and transport to ASCH day centres will also be required. It is a requirement of the Government's COVID-19 Bus Recovery Grant that payments for journeys made by concessionary card holders continue to be maintained at pre COVID-19 levels until at least April 2022. It also seems likely that the Government will reform the current concessionary payments scheme from April 2022, which is another *element of* uncertainty that the industry is facing.

- 4.24 The financial support provided by the Council to the transport operators throughout the pandemic has been invaluable in stabilising the sector and safeguarding the contracted services provided for the residents of Derbyshire. This work has been further enhanced by involvement of the sector in the formal recovery work streams and in regular operator liaison meetings.
- 4.25 The outputs of these discussions are reflected in the Derbyshire Economic Recovery Strategy and demonstrate the critical role that public transport has to play in enabling full and inclusive recovery to the business, retail, learning and visitor sectors across the County.
- 4.26 There is, however, an expectation that as Derbyshire begins to move further into a recovery phase, there will need to be flexibility to alter the current payment arrangements, to take account of changing local circumstances, new national guidance and any further modifications to the Government's existing emergency funding arrangements, as well as gearing up to deliver the aims and objectives of the Council's Enhanced Partnership and BSIP. There will also be a particular need to reassess Adult Care Transport following the completion of the current day care service review, and local bus, mainstream school and Derbyshire Connect services once the DfT indicates what funding will be made available to the Council through the BSIP process.
- 4.27 It is unlikely that all these decisions will be made before the current payment provisions end on 31 December 2021 and, therefore, it is proposed that the following payment funding arrangements are introduced from 1 January 2022:
- Payments for Adult Care Transport, contracted local bus, Derbyshire Connect, Mainstream Home to School, swimming buses and SEND Home to School Services, which continue to operate normally to remain at 100% of contract levels.

- Payments for Adult Care Transport to remain at 75% of the contracted levels for those services which continue not to operate due to the closure of the day care centre concerned.
- Concessionary fares payments to continue to be made based on the level of bus travel before the pandemic, subject to any changes which may be needed in response to updated DfT advice.

4.28 In addition:

- In the event that local lockdown arrangements are introduced that require the withdrawal of any local bus, Derbyshire Connect, Mainstream or SEND Home to School Transport Services or Adult Care Services in the affected area, then payments would be reduced to 75% of the contracted levels for those services until such time as normal services could be reintroduced, or until it is determined that transport requirements have changed and alternative recommendations are made, whichever is soonest.
- Should a transport operator be unable to fulfil a contracted service as a result of drivers or passenger assistants being unavailable due to a positive COVID-19 test, then payments will be reduced to 75% of the contracted level until such time as normal services are resumed.

4.29 It is proposed that these payment arrangements remain in place until 30 September 2022, or until an assessment of ongoing requirements is completed and alternative recommendations are made, whichever is soonest.

5. Consultation

5.1 Consultation on the proposals has taken place with the providers of the various transport services including bus, coach, taxi and community transport operators. Representatives from the Adult Care and Education teams within the County Council have also been consulted. All of these groups have been supportive of the proposals.

6. Alternative Options Considered

6.1 In considering the most appropriate way forward, a number of issues have been taken into account and other options assessed. The Council is firmly and clearly committed to ensuring value for money in everything it does, and this means not normally paying for goods and services that are not due to be received. However, the exceptional circumstances that are being faced nationally, the ongoing advice from Government, the precarious nature of the external market for transport operators, and the changing/unclear forward demands of customers

such as schools and day care centres, means that competing issues have to be balanced and a view taken on how best to protect not only the public purse in the short term, but the economic and social wellbeing of local residents and businesses, as well as retaining a competitive market place for the Council's long term bought in transport needs.

6.2 With this in mind, another funding/support option has been considered and this is set out below:

6.3 **Do nothing and remove all payments for services not operating from 1 January 2022 and revert to concessionary fares payment based on actual travel at the same time** - This is not considered an appropriate option given the significance of the economic and social impact on passengers and local businesses, the difficulties that would be faced in resuming full operations once the crisis has passed and the impact on the bus network caused by the loss of most concessionary fares income straight away. It is also contrary to Cabinet Office advice (PPN 04/20) and would make the Council ineligible for DfT Bus Recovery Grant, which offsets the additional costs to the Council of maintaining the local bus network due to the impact of COVID-19 on use.

6.4 On balance, it is therefore considered that the 'Proposals', as set out above, represent the most appropriate way forward. It is clear what services are being paid for and why. It is hoped that it will be possible to fully return to pre-COVID-19 arrangements sooner than 30 September 2022, however, the extension, until then, provides flexibility if this proves not to be the case.

7. Implications

7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

8. Background Papers

8.1 None identified.

9. Appendices

9.1 Appendix 1 - Implications.

10. Recommendations

That Cabinet:

- a) Notes the current situation with regard to COVID-19 recovery and public transport services in the County, and the need to maintain flexibility and responsiveness in the adopted approaches.
- b) Approves the proposed payment arrangements to bus, coach and taxi operators for contracted Council transport services and concessionary fares reimbursement from 1 January 2022 until 30 September 2022, or until the completion of the assessment of ongoing transport requirements is completed and alternative recommendations made, or until changes in Government guidance if this is earlier.

11. Reasons for Recommendations

- 11.1 Despite the lifting of most COVID-19 restrictions, demand for transport services and capacity in the market to provide them in the future still remains weak.
- 11.2 Approving the payment arrangements proposed will give stability in the supply of services during what is anticipated be a significant period of change as a result of the National Bus Strategy and alterations in the transport requirements of Council departments.

12. Is it necessary to waive the call in period?

- 12.1 No.

Report Chris Hegarty,
Author: Joanna Jackson

Contact Chris.Hegarty@derbyshire.gov.uk,
details: Joanna.Jackson@derbyshire.gov.uk

Implications

Financial

- 1.1 The Council has a total of around £35m committed expenditure per annum across all transport services. This includes around £9.5m of concessionary fare payments which is a statutory duty. It is important to note that the proposals contained in this report do not incur any additional expenditure beyond planned expenditure in the absence of the COVID-19 pandemic. Any saving against this planned expenditure would be 'windfall', but a wider consideration is the social and economic value of helping bus operators and transport contractors to survive this period of uncertainty, so that service provision can continue to be provided for both vulnerable children and adults and the wider travelling public in Derbyshire.

Legal

- 2.1 Section 63(1) of the Transport Act 1985 places a duty on Derbyshire County Council to secure the provision of '*such passenger transport services as the Council considers appropriate to meet any public transport requirement within Derbyshire which would not, in its view, be met, apart from any action taken by them for that purpose*'.
- 2.2 Under Section 63(8) of the Act, the Council also has a duty to have regard to the transport needs of members of the public who are elderly and disabled when exercising the Section 63(1) duty referred to above.
- 2.3 Under Section 508B and Schedule 35B of the Education Act 1996, local authorities are under a duty to provide free school transport to 'eligible children', and under Section 508A of the Education Act 1996.

Human Resources

- 3.1 The workforce which undertakes these contracted transport services are drivers and passenger assistants who are either employees or sub-contractors of external providers. It should be noted there may be local difficulties with some companies where a number of their driving personnel remain unable to work due to COVID-19. Suppliers have been asked to make the transport teams aware of any difficulties in fulfilling the terms of their contracts due to personnel shortages and this has not presented any insurmountable issues to date.

Information Technology

4.1 None.

Equalities Impact

5.1 Ordinarily, changes relating to home to school transport, SEND transport, adult care transport and local bus service provision are usually the subject of public consultation. However, these temporary measures are considered urgent due to the unprecedented situation caused by the COVID-19 pandemic and its impact on the resumption of safe passenger travel. In addition, the proposals set out in this report seek to continue many of the arrangements which have been in place since March 2020, which have maintained and protected services as much as possible so that any detrimental impact to protected groups is mitigated.

Corporate objectives and priorities for change

6.1 This proposal will help deliver the following Council Plan priorities: Resilient, Healthy and Safe Communities; High Performing, Value for Money and Resident-Focused Services; A Prosperous and Green Derbyshire.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 NA.